

REMARKS

Claims 27-69 are pending. By this Amendment, claims 2-26 are canceled without prejudice or disclaimer, claim 27 is amended to correct a typographical error, and claims 57-69 are added.

In reply to the Restriction Requirement, Applicants hereby elect Group I, claim 27, with traverse. New claims 57-69 also read on the elected invention, and it is requested that they be examined with claim 27. Support for the new claims is found in the original specification. No new matter has been added. Applicants understand that claims 28-56 will be withdrawn from examination at this time if the restriction requirement is maintained.

The restriction requirement is traversed because the claimed subject matter in each of claims 27, 28, and 29 (as representative of Group III) are not exclusive of each other. For example, claim 27 recites adaptively determining a mask-fit test pressure from a prior use. Claim 28 recites determining a mask-fit test pressure from the pressures used by the patient during a treatment session, which could be a prior use. Claim 29 recites a method for determining a mask-fit test pressure by determining a percentile pressure of a previous ventilatory assistance session, which again is a prior use. Thus, it is asserted that each independent claim relates to a method for determining a mask-fit test pressure and each is based on a type of prior use. As such, the inventions are related in that they are based on some type of prior use, thus have a similar mode of operation. Further, claim 27 (Group I) is sufficiently broad so as to encompass the methods of Group II (claim 28) and Group III (claim 29, for example). Thus, a thorough search for the features of Group I would require a search relevant to the search areas of Groups II and III. Accordingly, it is submitted that the restriction requirement is not proper, and it is requested that the requirement be withdrawn.

Applicants note that an Information Disclosure Statement was filed with the application and request that the cited references be considered during substantive examination of the claims.

A prompt and favorable action on the merits is requested. Should the Examiner have any questions or issues that can be resolved by telephone, he is requested to contact the undersigned.

Respectfully submitted,
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